REMARKS

The present application includes claims 1-8, 10-27, 33-37, 41-43, 45, 48, 51-52, 55-60, 62, 66-73, 79-82 and 88-99. Claims 1 and 13 are currently amended.

Premature Finality

The office action dated December 9, 2009 was designated final. In the conclusion on page 33 of the final office action, the Examiner stated: "Applicant's amendment necessitated the new ground(s) of rejection presented in this office action.

Applicant respectfully disagrees and requests withdrawal of the finality. Independent claims 37, 56, 66, 79, 88 and 89 were not amended at all and therefore their amendment could not have necessitated the new grounds of rejection. In the previous office action claims 37, 66 and 88 were rejected based on Xu et al. (US patent publication 2006/0166653) in view of Amlekar (US patent 7,289,500). In the current final office action, claim 37 is rejected based on Xu et al. (US patent publication 2006/0166653) in view of Dillon (US patent 6,728,878) and claims 66 and 88 are rejected based on Xu et al. (US patent publication 2006/0166653) in view of Kadyk et al. (US patent publication 2002/0099727). These new basis of rejection are not due to amendments as these claims were not amended at all.

Even the amendment of claim 1 could not have necessitated the new grounds of rejection, since as stated in applicant's response: "Claim 1 was amended to have all acts infringed by the server without requiring infringement by the clients. Claim 7 was amended to conform to the language of amended claim 1. Claims 45 and 62 were amended to correct dependencies. These amendments do not substantially change the scopes of the claims and are not related to 102 or 103 rejections."

Furthermore, in the previous office action, claim 45 was not rejected at all. In addition, the rejections of claims 56-57 were repeated by the Examiner without relating to applicant's arguments.

An advisory action indicating the withdrawal of the finality of the rejection is respectfully requested.

Independent claim 1

Claims 1-8, 10-27, 33-36 and 91-98 stand rejected under 35 USC 103(a) as being unpatentable over Xu et al. (US patent publication 2006/0166653) in view of Kadyk et al. (US patent publication 2002/0099727).

Claim 1 was amended for clarity to include a description of the notifications in the second clause. This amendment does not change the scope of the claim, as the description of the notifications was copied verbatim from the previous clause of the claim.

Claim 1 was further amended to divide the act of determining into two clauses: one relating to receivers that did not receive at least a portion of the data file and the other relating to receivers that received at least a portion of the data file. In addition, the last clause of claim 1 was amended to state which determined receivers the clause relates to. This amendment was made to clarify the ambiguity in what was meant by "the determined receivers" and was not made due to prior art.

Claim 1 as amended requires:

"transmitting a data file, from a data server, on the one or more multicast channels, without the data server receiving acknowledgements from the receivers on whether they received the notification on the upcoming multicast transmission"

As acknowledged by the Examiner, Xu does not teach transmitting a data file on one or more multicast channels without receiving acknowledgements from the receivers for the notification on the upcoming multicast transmission. Kadyk does not relate to multicast transmissions at all and therefore does not teach transmitting a data file on a multicast channel without receiving acknowledgements of receiving notifications on the upcoming multicast transmission.

Kadyk relates to synchronizing a client data copy with a server data copy (paragraph [0004]. The synchronization is performed by two types of updates:

1) "demand synchronization" which involves two way communications which includes confirmations (paragraph [0016]).

2) "update notification" which is performed in an unreliable manner (paragraphs [0009] and [0059]).

The fact that Kadyk suggests unreliable transmissions for a specific situation does not mean it would be obvious to use unreliable transmissions in any situation, as Kadyk also suggests using reliable transmissions, for "demand synchronization".

The situation for which Kadyk suggests using unreliable transmissions is one in which the synchronization is not necessary but is desired in order to reduce data staleness (paragraph [0012]). The reducing of the data staleness reduces the amount of data which needs to be

transmitted when synchronization is requested as only missing data is sent at such times (paragraphs [0055]-[0056]). In Kadyk, the notification that data was not received is simply deferred until a synchronization is requested. The deferring of the notification does not have any effect on receiving other data.

In contrast, with relation to claim 1, if a mobile station did not receive the notification on a multicast transmission, it may not receive any of the data in the transmission to which the notification relates as it will not know about the multicast transmission, the channel on which it is provided and/or the time of the transmission and therefore will not tune to receive the multicast transmission.

There is no indication in Xu or in Kadyk that their combination would involve using unreliable transmissions for the notification on an upcoming multicast transmission rather than reliable transmissions, which are also described in Kadyk. Therefore, the Examiner has not established a *prima facie* obviousness rejection regarding claim 1.

The dependent claims are patentable at least because they depend on patentable independent claims. Nonetheless, at least some of the dependent claims add further patentability over the prior art.

Claim 13, for example, requires, as amended to match the language of amended claim 1, delivering the data file in a unicast transmission to each of the receivers determined not to have received at least a portion of the data file. This is not taught by Xu as acknowledged by the Examiner. Neither is it taught by Kadyk which does not relate to multicast transmissions at all.

Applicant notes that claim 13 relates to the delivery of the file itself and not to the notification on the upcoming multicast transmission.

Claim 27, for example, requires receiving the acknowledgements over a different network than the network on which the data file was multicast.

Regarding claim 27 the Examiner referred to paragraph [0064] of Kadyk, which discloses resending if the process was interrupted. Applicant does not understand the connection between paragraph [0064] and claim 27, as paragraph [0064] does not mention the use of a different network at all. The Examiner also stated that it would be obvious to use in Xu a backup network when the transmissions are interrupted. Applicant did not find any mention of a backup network in Kadyk or in Xu and does not see any connection between use of a backup network in case of an

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interruption in transmissions and the requirement of claim 27 that acknowledgements of a multicast transmission are received on a different network than the network used for the multicast.

Independent claim 37

Claims 37, 41-43, 45, 48, 51, 52 and 55 stand rejected under 35 USC 103(a) as being unpatentable over Xu et al. (US patent publication 2006/0166653) in view of Dillon (US patent 6,728,878).

Applicant respectfully traverses the rejection and respectfully submits that the Examiner has not established a *prima facie* case of obviousness, as at least one limitation of claim 37 is not taught by either Xu or Dillon.

Claim 37 requires "receiving at least one key required for decrypting the at least one packet after receiving a sufficient number of packets for reconstructing the data file".

As acknowledged by the Examiner, and discussed in detail in applicant's previous response, this is not taught or suggested by Xu. Applicant respectfully submits that this is also not taught or suggested by Dillon.

Dillon describes transmitting packets of a document from a broadcast center 150 to a broadcast receiver 120. For each packet received, broadcast receiver 120 determines whether it has a key for the document (col. 6, lines 61-66). Each packet is decrypted as soon as it is received, eliminating the need to store both an encrypted and a decrypted version of the block (abstract). It is thus clear that Dillon does not teach or suggest "receiving at least one key required for decrypting the at least one packet after receiving a sufficient number of packets for reconstructing the data file", as each packet is decrypted immediately upon receipt.

The dependent claims are patentable at least because they depend on patentable independent claims. Nonetheless, at least some of the dependent claims add patentability over independent claim 37.

Claim 41, for example, requires: "requesting the at least one key after receiving a sufficient number of packets for reconstructing the data file". Xu does not teach or suggest requesting a key after receiving the sufficient number of packets. Paragraph [0069] to which the Examiner referred relates to a radio network controller (RNC) (not a mobile station!) that needs to request MAC keys. This paragraph and Xu in general do not teach or suggest requesting <u>after receiving a sufficient number of packets</u>.

Claim 42, for example, requires that the requesting of the at least one key is performed responsive to a user instruction. Applicant could not find any mention of a user in paragraphs [0072] and [0073] of Xu referred to by the Examiner.

Claim 43, for example, requires that at least a portion of the data file is not encrypted and the user instruction is received after displaying the non-encrypted portion of the file to the user. Xu does not suggest that a data file has both an encrypted and a non-encrypted portion. Neither does Xu mention displaying the non-encrypted portion and only then receiving a user instruction.

Claim 45, for example, requires that the non-encrypted portion of the file is received before any encrypted portion of the data file.

In rejecting this claim, the Examiner related to the announcements received by the receivers in Dillon. Applicant respectfully notes that Dillon specifically states that the announcement message is decrypted (col. 6, line 52) and therefore the announcement message cannot be considered a teaching of a non-encrypted portion. Furthermore, the announcement messages are not a portion of the file. Dillon clearly makes this distinction, for example in stating: "After broadcast center 150 sends the announcement messages for a document, it prepares to send the document itself" (col. 6, lines 61-62). Applicant respectfully submits that there is a substantial difference between an announcement on an upcoming broadcast of a file and an actual file portion and teachings regarding one do not indicate anything about the other.

Independent claim 56

Claim 56- 60 and 62 stand rejected under 35 USC 102(b) as being unpatentable over Xu et al. (US patent publication 2006/0166653) in view of Kadyk (US patent publication 2002/0099727).

Applicant respectfully traverses the rejection and respectfully submits that the Examiner has not established a *prima facie* case of obviousness, as at least one limitation of claim 56 is not taught by Xu.

Applicant notes that in the explanation of the rejection the Examiner did not mention Kadyk at all and it is not clear why Kadyk is mentioned in the rejection statement. In an electronic search, the terms "key", "decrypt" and "decipher" were not found in Kadyk at all.

Claim 56 requires "providing at least one of the plurality of receivers with one or more decryption keys ... after the file was transmitted".

Xu does not teach or suggest that keys are provided after the file was transmitted.

The Examiner referred to paragraphs [0071]-[0074] regarding this requirement, stating that "the mobile station obtains a signing key (signing keys provided to the mobile from the KDC, for the purpose of decrypting the file"). Applicant acknowledges that Xu states that a key is used to decipher encrypted data. Applicant notes, however, that Xu does not teach or suggest in these paragraphs, or anywhere else that applicant is aware of, that at least one key is provided after the file was transmitted, as required by claim 56. In fact, paragraph [0074] of Xu seems to imply that the key is received by the receiver at the beginning of the multicast session, before the data which needs to be decrypted is received and therefore the key is provided before the file was transmitted.

Applicant respectfully notes that with regard to claim 37 the examiner acknowledged that Xu does not explicitly disclose receiving the key as required in the claim (receiving at least one key ... after receiving a sufficient number of packets for reconstructing the data file). Applicant respectfully submits that it is not clear what the Examiner considers the fundamental difference between claims 37 and 56 causing such a different view of Xu.

The dependent claims are patentable at least because they depend on patentable independent claims. Nonetheless, at least some of the dependent claims add patentability over independent claim 56.

Claim 57, for example, requires providing at least one of the receivers with at least one decryption key for the encrypted file, before transmitting the encrypted file. Taken together with claim 56, at least one receiver receives a key before the transmission of the file and at least one receiver receives a key after the transmission of the file. Paragraph [0069] is silent about whether the key is provided before or after the file. Applicant respectfully notes, however, that if the Examiner is of the opinion the Xu provides the keys before the file as seems to be implied from the rejection of claim 57, then Xu cannot be used to reject claim 56 and its dependents, which relate to providing keys after the file.

Claim 62, for example, requires that the at least one of the receivers provided with the decryption keys before transmitting the encrypted file are selected at least partially responsive to the number or percentage of acknowledgements provided by the receivers in a given period. This is not taught or suggested by Xu or Kadyk. As neither reference suggests the limitation of claim 57 (Kadyk does not relate to keys at all), neither reference needs to select which receivers receive the keys before and which receive the keys after the file. Of course, neither reference suggests using the number or percentage of acknowledgements in doing such a selection.

Independent claim 66

Claims 66-73 stand rejected under 35 USC 103(a) as being unpatentable over Xu et al. (US patent publication 2006/0166653) in view of Kadyk (US patent publication 2002/009727).

Applicant respectfully traverses the rejection and respectfully submits that the Examiner has not established a *prima facie* case of obviousness, as at least one limitation of claim 66 is not taught by Xu or Kadyk.

Claim 66 requires estimating one or more transmission parameter values required to achieve, on the average, a reception rate which allows less than 100% of the receivers to which the multicast data is directed to reconstruct the data file from the multicast transmission.

As explained in applicant's previous response, this is not taught or suggested by Xu. Applicant respectfully submits that the flag holders mentioned in paragraph [0063] have nothing to do with the reception rate. The flag holders are used to help the transmitter determine whether there are receivers in the cell and hence whether transmission in the cell is required. This has nothing to do with purposefully selecting transmission parameters which will cause some of the receivers not to be able to reconstruct the data file, as required by claim 66.

Kadyk does not teach or suggest this limitation and the Examiner has not claimed that it does. In fact, applicant did not find in Kadyk any mention of estimating transmission parameter values.

The dependent claims are patentable at least because they depend on patentable independent claims. Nonetheless, at least some of the dependent claims add patentability over independent claim 66.

Claim 68, for example, requires estimating a transmission power required to achieve, on the average, a reception rate which allows less than 100% of the receivers to which the multicast data is directed to reconstruct the data file from the multicast transmission. The Examiner referred to paragraph [0077] of Xu as describing a transmitter part which can be maintained in an idle mode. Applicant respectfully submits that paragraph [0077] of Xu relates to a transmission part of a mobile station. Such mobile stations do not usually perform multicast transmissions and there is no indication in Xu that the mobile station does multicast transmission. Furthermore, paragraph [0077] of Xu does not relate to selecting a transmission power. The idle mode referred to by the Examiner simply does not transmit and therefore does not have a transmission power.

Claim 69, for example, requires selecting a FEC redundancy level to achieve, on the average, a reception rate which allows less than 100% of the receivers to which the multicast data is directed to reconstruct the data file from the multicast transmission.

Regarding this claim, the Examiner stated that it would have been obvious to modify Xu with Kadyk to incorporate forward error correction (FEC), for (FEC) software may reduce the number of retransmissions.

Applicant respectfully submits that the combination suggested by the Examiner does not meet the requirement of claim 69. Claim 69 does not require use of FEC, which is very well known in the art, but rather requires selecting a FEC redundancy level meeting specific requirements stated in claim 69. applicant respectfully submits that Kadyk and Xu do not teach selecting a FEC redundancy level at all and surely do not teach or suggest such selection according to the limitation of claim 69.

Independent claim 79

Claims 79-82 and 99 stand rejected under 35 USC 103(a) as being unpatentable over Xu et al. (US patent publication 2006/0166653) in view of Kadyk (US patent publication 2002/009727).

Applicant respectfully traverses the rejection and respectfully submits that the Examiner has not established a *prima facie* case of obviousness, as at least one limitation of claim 79 is not taught or suggested by Xu or Kadyk.

Claim 79 requires base stations having different bandwidth amounts for multicast transmission, dropping data so that the data can be transmitted by each of the base stations on its respective allocated bandwidth and transmitting the non-dropped data substantially synchronously.

This is not taught or suggested by Kadyk or Xu. Paragraph [0054] of Kadyk, to which the Examiner related, suggests compressing data so that it fits into small packets. Applicant does not see the connection between such compression and the requirements of claim 79.

The dependent claims are patentable at least because they depend on patentable independent claims.

Independent claim 88

Claim 88 stands rejected under 35 USC 103(a) as being unpatentable over Xu et al. (US patent publication 2006/0166653) in view of Kadyk (US patent publication 2002/009727).

Applicant respectfully traverses the rejection and respectfully submits that the Examiner has not established a *prima facie* case of obviousness, as at least one limitation of claim 88 is not taught by Xu or Kadyk.

Claim 88 requires a controller adapted to generate a notification on an upcoming multicast transmission responsive to a received file, to provide the notification through the output interface for transmission and to provide the received file for transmission, without receiving acknowledgements from the receivers on whether they received the notification.

As acknowledged by the Examiner, Xu does not teach transmitting notifications without receiving acknowledgements. As discussed above regarding claim 1, Kadyk does not teach or suggest using unreliable transmissions for a notification on an upcoming multicast of a file.

Independent claim 89

Claims 89-90 stand rejected under 35 USC 103(a) as being unpatentable over Xu et al. (US patent publication 2006/0166653) in view of Kadyk (US patent publication 2002/009727).

Applicant respectfully traverses the rejection and respectfully submits that the Examiner has not established a *prima facie* case of obviousness, as at least one limitation of claim 89 is not taught by Xu or Kadyk.

Claim 89 requires a processor adapted to tune the receiver to receive data on a plurality of multicast channels and to combine the data received on the plurality of channels into a single multimedia file.

Regarding this requirement, the Examiner referred to paragraph [0050] of Xu, which states that the MBMS notification and the radio bearer assignment notification may be transmitted together in a single message or can be transmitted successively in separate messages.

Applicant notes that such separate messages are not suggested to be transmitted on separate channels. Actually, it seems clear that the messages are transmitted on a single channel from the use of the word "successively". Furthermore, these notifications do not belong to a multimedia file and cannot be combined into one.

The dependent claims are patentable at least because they depend on patentable independent claims.
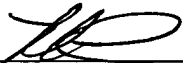
Attorney Docket No: 0276-059   PATENT
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Serial Number: 10/574,240

Conclusion

Applicants respectfully submit that in view of the above arguments the claims are allowable. Allowance of the application is respectfully awaited. If, however, the Examiner does not feel the application can be allowed, or the Examiner feels that an interview can forward the prosecution of the application, applicant respectfully requests that the Examiner call applicant's agent to set up a telephone interview with the managing patent agent Yaakov Schatz who is residing in Israel. Yaakov Schatz can also be reached by email at yschatz@israel-patents.co.il.

Respectfully Submitted,
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